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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,951	12/30/2003	Peter Gnauck	(Z) 00052 P US	6576

7590
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01/10/2008

EXAMINER

NGUYEN, KIET TUAN

ART UNIT	PAPER NUMBER
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2881

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,951	Applicant(s) GNAUCK ET AL.	
	Examiner Kiet T. Nguyen	Art Unit 2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15-18 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/2/07</u> | 6) <input type="checkbox"/> Other: _____ |

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Objected Informalities

The disclosure is objected to because of the following informalities:

In The Specification

Page 1, line 4, "This is a Continuation application of PCT/EP01/07431" should be -- This application is a 371 of PCT/EP01/07431 -- according to the Declaration filed on 10-01-2007.

Appropriate correction is required.

Rejection Under 35 U.S.C. 102(b & e)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 98/22971.

Claims 1-2, 5-6 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 11 096956.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Danilatos (4,992,662) (See col. 3, line 61 to col. 4, line 7).

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Essers (6,707,041).

Essers (6,707,041) discloses, in figs. 1-10, a detector for a scanning electron microscope with variable pressure. The detector for detecting electrons and light includes a scintillator 56 having electrically conductive coatings 52, 53 and 54 for transparent the light (see col. 10, lines 39-40) in form of grid or strip and applied with the potentials U7a, U7b and U8; a photodetector 82; a light guide 56 or 86 made of scintillator material; a collector electrode 52 applied with the potential that is different with the scintillator 56; amplifiers connected to at least one of the collector and to the conductive coating (see col. 8, lines 1-4); a gas cascade arising between the collector electrode and the conductive coating by a secondary electron cascade due to impacts in the gas (see col. 2, lines 41-67); the potential applied to the collector electrode 52 at 150-1,000 V (see col. 9, lines 4-5); and a needle electrode 31 surrounding the

scintillator 56 in a form of a pot that tapers conically and comprises an opening on the side of a sample 11.

Claims 15-18 and 21 would be allowable if rewritten or amended to overcome the objection(s) and the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Reasons for indicating allowable subject matter

The prior art fails to disclose a detector for varying pressure ranges in a sample chamber of a scanning electron microscope, which includes a pressure meter in the sample chamber for measuring the pressure in the sample chamber to control the potential that is applied to a scintillator as recited in claim 15.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Essers (6,590,210) discloses a scanning electron microscope having an electron detector used in a gaseous environment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet T. Nguyen whose telephone number is 571-272-2479. The examiner can normally be reached on Monday-Friday 8-6.


The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KN


KIET T. NGUYEN
PRIMARY EXAMINER